

HEALTH CARE PROVIDERS IMMUNITY FROM LIABILITY ACT

58-13-1. Title.

This chapter is known as the "Health Care Providers Immunity from Liability Act."

58-13-2. Emergency care rendered by licensee.

A person licensed under Title 58, Occupations and Professions, to practice as any of the following health care professionals, who is under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care:

- (1) osteopathic physician and surgeon;
- (2) physician and surgeon;
- (3) naturopath;
- (4) dentist or dental hygienist;
- (5) chiropractic physician;
- (6) physician assistant;
- (7) optometrist; or
- (8) nurse licensed under Subsection 58-31b-301.

58-13-3. Qualified immunity - Health professionals - Charity care.

- (1)
 - (a) The Legislature finds many residents of this state do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost. The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.
 - (b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer health care in charity care settings in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.
- (2) As used in this section:
 - (a) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.
 - (b) "Health care professional" means individuals licensed under Title 58, Occupations and Professions, as physicians and surgeons, osteopaths, podiatrists, optometrists, chiropractors, dentists, dental hygienists, registered nurses, certified nurse midwives, and other nurses licensed under Section 58-31b-301.
 - (c) "Remuneration or compensation":
 - (i) (A) means direct or indirect receipt of any payment by the physician and surgeon, health care facility, other health care professional, or organization, on behalf of the patient, including payment or reimbursement under medicare or medicaid, or under the state program for the medically indigent on behalf of the patient; and
 - (B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide

- uncompensated health care; and
 - (ii) "does not mean any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as medical supplies or drugs.
- (3) A health care professional who provides health care at a health care facility is not liable in a medical malpractice action if:
 - (a) the treatment was within the scope of the health care professional's license under this title;
 - (b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;
 - (c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and
 - (d) prior to rendering services, the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation and that in exchange for receiving uncompensated health care, the patient consents to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.
- (4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:
 - (a) the health care facility meets the requirements in Subsection (3)(b);
 - (b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and
 - (c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.
- (5) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

58-13-4. Liability immunity for health care providers on committees - Evaluating and approving medical care.

- (1) As used in this section, "health care provider" has the same meaning as in Section 78-14-3.
- (2) Health care providers serving in the following capacities and the organizations or entities sponsoring these activities are immune from liability with respect to deliberations, decisions, or determinations made or information furnished in good faith and without malice:
 - (a) serving on committees;
 - (i) established to determine if hospitals and long-term care facilities are being used properly;
 - (ii) established to evaluate and improve the quality of health care or determine whether provided health care was necessary, appropriate, properly performed, or provided at a reasonable cost;
 - (iii) functioning under Pub. L. No. 89-97 or as professional standards review organizations under Pub. L. No. 92-603;
 - (iv) that are ethical standards review committees; or
 - (v) that are similar to committees listed in this subsection and that area established by any hospital, professional association, the Utah Medical Association, or one of its component medical societies to evaluate or review the diagnosis or treatment of, or the performance of health or hospital services to, patients within

this state;

- (b) members of licensing boards established under Title 58, Occupations and Professions, to license and regulate health care providers; and
 - (c) health care providers or other persons furnishing information to those committees, as required by law, voluntarily, or upon official request.
- (3) This section does not relieve any health care provider from liability incurred in providing professional care and treatment to any patient.
 - (4) Health care providers serving on committees or providing information described in this section are presumed to have acted in good faith and without malice, absent clear and convincing evidence to the contrary.

58-13-5. Information relating to adequacy and quality of medical care - Immunity from liability.

- (1) As used in this section, "health care provider" has the same meaning as defined in Section 78-14-3.
- (2)
 - (a) The division, and the boards within the division that act regarding the health care providers defined in this section, shall adopt rules to establish procedures to obtain information concerning the quality and adequacy of health care rendered to patients by those health care providers.
 - (b) It is the duty of an individual licensed under Title 58, Occupations and Professions, as a health care provider to furnish information known to him with respect to health care rendered to patients by any health care provider licensed under Title 58, Occupations and Professions, as the division or a board may request during the course of the performance of its duties.
- (3) A health care facility as defined in Section 26-21-2 which employs, grants privileges to, or otherwise permits a licensed health care provider to engage in licensed practice within the health care facility, and any professional society of licensed health care providers, shall report any of the following events in writing to the division within sixty days after the event occurs regarding the licensed health care provider:
 - (a) terminating employment of an employee for cause related to the employee's practice as a licensed health care provider;
 - (b) terminating or restricting privileges for cause to engage in any act or practice related to practice as a licensed health care provider;
 - (c) terminating, suspending, or restricting membership or privileges associated with membership in a professional association for acts of unprofessional, unlawful, incompetent, or negligent conduct related to practice as a licensed health care provider;
 - (d) subjecting a licensed health care provider to disciplinary action for a period of more than 30 days;
 - (e) a finding that a licensed health care provider has violated professional standards or ethics;
 - (f) a finding of incompetence in practice as a licensed health care provider;
 - (g) a finding of acts of moral turpitude by a licensed health care provider; or
 - (h) a finding that a licensed health care provider is engaged in abuse of alcohol or drugs.
- (4) This section does not prohibit any action by a health care facility, or professional society comprised primarily of licensed health care providers to suspend, restrict, or revoke the employment, privileges, or membership of a health care provider.
- (5) The data and information obtained in accordance with this section is classified as a "protected" record under Title 63, Chapter 2, Government

Records Access and Management Act.

- (6) (a) Any person or organization furnishing information in accordance with this section in response to the request of the division or a board, or voluntarily, is immune from liability with respect to information provided in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.
- (b) The members of the board are immune from liability for any decisions made or actions taken in response to information acquired by the board if those decisions or actions are made in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.
- (7) An individual who is a member of a hospital administration, board, committee, department, medical staff, or professional organization of health care providers is, and any hospital, other health care entity, or professional organization conducting or sponsoring the review, immune from liability arising from participation in a review of a health care provider's professional ethics, medical competence, moral turpitude, or substance abuse.
- (8) This section does not exempt a person licensed under Title 58, Occupations and Professions, from complying with any reporting requirements established under state or federal law.

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